

## **Tucson City Court Homeless Court Program Pilot Project**

Established in December 2004

### **Homeless Court Description**

Homeless Court Program (HCP) is a special Tucson City Court session for homeless defendants who are residing in a homeless shelter or counseling program. The purpose of the program is to help resolve outstanding misdemeanor offenses and warrants. The HCP builds on partnerships between the court, local shelters and service agencies, and the prosecutor and public defender. It works to resolve the problems that homelessness represents with practical solutions. Initial referrals to Homeless Court originate in shelters and service agencies. The prosecution and defense review the cases before the court hearing. The court order for sentencing substitutes participation in agency programs for fines and custody. The HCP is designed for efficiency; the majority of cases are heard and resolved, and people are sentenced, in one hearing.

### **History**

In 1999, Tucson City Court, together with the Veterans Hospital and the Comin Home Program, began holding Veterans Court. Its purpose was to help Veterans in transition to resolve misdemeanor charges and warrants that posed a barrier to their further reentry into the community and employment. The HCP is an outgrowth of Veterans Court and is held together with Veterans Court on the Third Friday of each month. Veterans Court began at Stand Down and evolved into its current monthly format. Both programs help defendants to resolve outstanding misdemeanor criminal cases. To counteract the effect of criminal cases pushing homeless defendants further outside society, this Court combines a progressive plea bargain system, alternative sentencing structure, assurance of "no custody" and proof of program activities, to address a full range of misdemeanor offenses and bring them back into society.

### **Core Elements**

#### **Voluntary Program**

Homeless participants voluntarily sign up for the HCP and must be recommended through their chosen homeless shelter or service agency. The homeless service provider introduces the participant to the HCP explaining the purpose, entry criteria and step by step process. The participant has voluntarily entered his/her homeless shelter/agency. The HCP does not order participants into a program. If a participant who has signed up for Homeless Court decides to challenge his/her case, be it through a trial or motion, the case is set for a date certain in the court system outside of Homeless Court. The HCP participant is entitled to all protections



afforded by due process of law. No one gives up the right to go to trial or pursue motions challenging the allegations against him/her.

### **Addresses Full Range of Misdemeanor Offenses**

The HCP addresses a broad spectrum of misdemeanor offenses, including traffic offenses, drinking in public, loitering and other minor offenses. The HCP recognizes that people can overcome great obstacles and serious misdemeanor offenses, and that these cases represent but one part of their lives, not the whole of the individual. Participants, who appear in Homeless Court with serious misdemeanor cases, submit proof of completion in significant program activities. In many circumstances, the participant's program activities voluntarily exceed the demands a court might order for treatment for low term felony cases (e.g., certain drug and theft charges).

### **Plea Bargaining**

The HCP offers a different plea structure from the traditional court proceeding. The HCP plea agreement responds to the cases/offenses the homeless participants receive due to their condition and status. Additionally, the HCP agreement acknowledges the efforts the participants undertake before their appearance in court. The plea agreement recognizes the participant has many times completed the counseling and community service before the court imposes a sentence. The participant has performed the program activities without the threat of custody or a larger fine. The participant has generally completed counseling and community service before coming to Homeless Court, because that is what he/she needed to do to make a move from the streets, through the shelter program, to self-sufficiency.

### **Alternative Sentencing**

The HCP "sentences" participants to activities in the shelter program. In order to be eligible, persons must have been in residence or active treatment for at least 60 days. Local homeless shelters and agencies are the gateways for participants to enter this Court. Homeless persons who want to appear before this Court must sign up through one of a number of local shelters. The alternative sentencing structure is not coercive or punitive in nature, but rather designed to assist homeless participants with reintegration into society. With alternative sentencing, the HCP gives "credit for time served" for the participant's accomplishments in shelter activities. These activities include life-skills, chemical dependency or AA/NA meetings, computer and literacy classes, training or searching for employment, medical care (physical and mental), counseling and volunteer work. These activities replace the traditional court sentence options of fines, public work service and custody. The Homeless Court recognizes that each shelter has its own requirements and guidelines to allow residents access to the Homeless Court. Some shelters require a resident to complete an assessment, an initial phase of the program, or attend specified meetings. The shelters introduce potential participants to the Homeless Court through a variety of means. These agencies will offer the Homeless Court as an option after the homeless person has completed a certain course, phase, or activity. Each shelter/service provider establishes requirements in accordance with its treatment program. The Homeless Court does not interfere



with the shelter requirements; requirements vary from program to program. The shelters perform the assessments of clients and provide for their basic needs (food, clothing and shelter), while building the motivation and support that lead clients to the services which, in turn, fulfill the court orders for alternative sentencing. The shelter caseworkers are in the best position to evaluate the client's needs and design a plan with attainable goals and benefits. Most shelters offer emergency and transitional beds for their clients. Some provide independent living for clients who successfully complete their program. Other shelters provide basic services or support for clients seeking to access benefits, counseling, group meetings, or an identification card, clean clothing and a meal. Clients who actively select their services and goals are more likely to benefit from the program. The Homeless Court and shelters share the desire to empower the individual and enable that person to overcome the adversity that fosters or causes homelessness. The shelter representatives may write advocacy letters for each client. The advocacy letter is evidence of the relationship between the client and the agency while including a description of the program, the client's start date, and accomplishments, programs completed and insight into the client's efforts. The HCP sentence strengthens and advances the efforts of the participant and agency representatives. When participants work with agency representatives to identify and overcome the causes of their homelessness, they are in a stronger position to successfully comply with court orders. The quality, not the quantity, of the participant's time spent in furtherance of the program is of paramount importance for a successful HCP experience. A person who signs up for the HCP is not limited to the sentencing alternatives provided by the homeless agency that referred him/her to Court. Rather, the participant is encouraged to participate in a program that will best meet his/her needs.

### **No One Goes Into Custody**

The HCP key players (judges, prosecutors, defense attorneys, and homeless shelter/service agencies) agree, "No one goes into custody against his or her will." This does not mean that the prosecution gives up its power to ask for custody, nor does the Court relinquish its authority to incarcerate. Rather, this agreement acknowledges both that the participants have committed offenses and have met court requirements through their work in their programs. This agreement respects the relationship and trust the homeless service agencies hold with the participants who appear before the HCP, and acknowledges that time spent working with these agencies is equivalent to, and more constructive than, "time" spent in custody.

### **Distinctions between the Traditional Court and Homeless Court**

Typically, the HCP participant has already been in a shelter program for at least 30 days from the initial point of registration, to the hearing date, when standing before the judge in Homeless Court. By this point, their level of activities in the shelter or a service agency exceeds the requirements of the traditional court order. While the program activities vary from one shelter to another, they usually involve a greater time commitment than traditional court orders and introspection for their participants. Program staff ensures the homeless participants are already successful in their efforts to leave the streets before they enter the courtroom. These individuals are on the right track before they meet the judge at the HCP.



## **Objectives**

The Homeless Court Program brings the law to the streets, the court to the homeless and the homeless back into society. The Homeless Court Program provides access to Court for homeless defendants, working with shelter services, holding proceedings in shelter community rooms and recognizing individual effort for purposes of sentencing. The Homeless Court Program's greatest achievement is the contribution of the shelter and homeless participants building a more inclusive criminal justice system and stronger community.

## **Process**

### **Overview of the HCP Process**

Each month staff from the Public Defender's and City Attorney's offices, volunteer attorneys, various shelters, and the Tucson City Court carry out a series of synchronized steps which ultimately culminate in the HCP hearing.

**Step One** - Two weeks prior to the hearing date, the shelter or agency submits a list of Defendants to the Court, the Prosecutor and the Public Defender.

**Step Two** - Utilizing the list from the agency, both the criminal and civil files in the court system are pulled and reviewed by Court staff. A list of the criminal files is submitted to the Prosecutor, Public Defender and volunteer attorneys.

**Step Three** - Using the information on the list of cases, the Tucson City Court and the Prosecutor conduct a criminal history search for open cases, further proceedings, warrants, and pending civil assessment penalties. Active cases are placed on the next HCP calendar if they are criminal cases within the jurisdiction of the City of Tucson (i.e., persons cited for misdemeanors committed in the City of Tucson), with outstanding warrants. No felony charges are calendared for HCP.

**Step Four** - Plea Offers and Negotiations: The City Prosecutor reviews the case files of the defendants on the court calendar. The Prosecutor provides his list of criminal of cases, relevant discovery and an offer (plea bargain) for resolution of the cases. The prosecutor makes offers for resolution of the cases based on criminal history, impact of criminal behavior on the community, and the number of outstanding cases. The Prosecutor offers a plea bargain, in anticipation of proof, and an acknowledgment of each participant's involvement in his or her respective program. The Public Defender or volunteer attorney may negotiate further with the prosecutor at the hearing after learning more about the defendant's individual situation during a pre-hearing consultation. In most instances, these negotiations end with an agreement reached. In the rare instance when the prosecution and defense do not reach an agreement, the case is continued to a future date for further negotiations or proof of program activities.

**Step Five** - The hearing is scheduled for the third Friday of each month at 1:30 PM. Hearings are held at Tucson City Court. Due to advanced planning efforts by all involved parties, the hearing

moves rather quickly. Unlike a traditional court, the judge communicates more often with the defendant than with the public defender. The judge asks the defendant about what brought him/her to the Court, his/her participation in programs, counseling, or classes. The judge consults the city attorney about the offer for disposition and, in most cases, the charges, warrants, and penalties are formally dropped as previously agreed; the defendant's record is clean. On average, a significant number of the Homeless Court cases are dismissed. As in traditional court, the judge may continue a case until the defendant provides appropriate documentation to satisfy the alternative sentence agreement (such as advocacy letters). If a defendant fails to appear for the hearing, the case is taken 'off-calendar' and any agreements that have been negotiated between the prosecutor and public defender are withdrawn.

### **Budget Considerations**

Since its inception, both the HCP and Veterans Court, have been staffed and funded within the normal budget of the Prosecutor, Public Defender, City Court and the agencies, as well as the numerous hours of time volunteered by the Lawyers of the Christian Lawyers group. As the program continues and statistics are compiled, funding grant based or general fund will be sought to expand the program.